

RemarksI. Response Restriction Requirement

In the Official Communication dated 10 August 2009, restriction to one of the following independent and distinct groups of invention was required:

Group I	Claims 1-3, 5, 6, 8-14, 17, 21, and 24-29;	drawn to compounds, compositions and method of use of the compounds of formula I where W-X-Y-Z and j form a thieno[3,4-b]azepine ring;
Group II	Claims 1-3, 5, 6, 8-14, 17, 21, and 24-29;	drawn to compounds, compositions and method of use of the compounds of formula I where W-X-Y-Z and j form a thieno[3,2-b]azepine ring;
Group III	Claims 1-3, 5-7, 9-14, 17, 21, and 24-29;	drawn to compounds, compositions and method of use of the compounds of formula I where W-X-Y-Z and j form a pyrido[2,3-b]azepine ring;
Group IV	Claims 1-3, 5-7, 9-14, 17, 21, and 24-29;	drawn to compounds, compositions and method of use of the compounds of formula I where W-X-Y-Z and j form a pyrido[3,4-b]azepine ring;
Group V	Claims 1-3, 5-7, 9-14, 17, 21, and 24-29;	drawn to compounds, compositions and method of use of the compounds of formula I where W-X-Y-Z and j form a pyrido[4,3-b]azepine ring;
Group VI	Claims 1-3, 5-7, 9-14, 17, 21, and 24-29;	drawn to compounds, compositions and method of use of the compounds of formula I where W-X-Y-Z and J form a pyrido[3,2-b]azepine ring;
Group VII	Claims 1-3, 5, 6, 8-14, 17, 21, and 24-29;	drawn to compounds, compositions and method of use of the compounds of formula I where W-X-Y-Z and J form a pyrido[3,4-b]azepine ring;
Group VIII	Claims 1-13, 17, 21, and 24-29;	drawn to compounds, compositions, and method of use of compound of formula I where W-X-Y-Z and j form a ring other than those embraced by Groups I-VII above;
Group IX	Claim 30;	drawn to complex compositions which include an additional active ingredient.

In addition, selection of a single species within the elected Group was required.

In response, Applicants elect to prosecute the invention of Group VI, claims 1-3, 5-7, 9-14, 17, 21, and 24-29, drawn to compounds, compositions and method of use of the compounds of formula I where W-X-Y-Z and j form a pyrido[3,2-b]azepine ring *with traverse*. Applicants select for initial examination, the species exemplified by Example 14.

Applicants traverse the restriction requirement as it applies to the amended claims. As shown above in the Amendments to the Claims and further discussed below, claim 1 has been amended. The compound claims 1-14 are now directed compounds in which the A ring is pyridine, pyrazole, or thiophene. The method of use claims (17, 24-29), pharmaceutical composition claim (21), and combination claim (30) also depend either directly or indirectly from

claim 1.

Claim 30 includes the active ingredient and an additional component. Claim 30 is a combination claim related to the subcombination claims 21 (and 1). Therefore a two way distinctness and reasons for insisting on restriction are necessary. (MPEP 806.05(c).) It is believed that claim 30 can be searched and examined with any of Groups I-VIII.

Further it is believed that all the claims as amended can be searched and examined without a serious burden on the Examiner. As noted below the variable j has been deleted and the core ring structure is now just one of a pyridoazepine, triazaazulene, or thienoazepine ring.

Therefore it is believed that a search and examination of all pending claims can be accomplished without a serious burden.

In alternative, consolidation of Groups III-VII and IX is requested. Each of these Groups (excluding IX) includes a pyridoazepine ring core, which can be readily searched and examined without undue burden.

II. Claim Amendments

Claim 1 has been amended to more closely mirror the exemplified compounds. The variable “j” and the R² group have been deleted. In addition, the A ring considered by itself is now one of pyridine, thiophene or pyrazole to provide a core pyridoazepine, triazaazulene, or thienoazepine ring. It is believed that the claim amendments do not add new matter. Support for the claim amendments can be found in the claims as originally filed and the Examples *inter alia*.

Claims 2, 3, 5-8 and 10-13 have been amended to correspond with amended claim 1.

Claims 4 and 9 have been canceled in light of the amendments to claim 1. (Claims 15, 16, 18-20, 22, and 23 were canceled in a previous submission.)

Claim 14 has been amended to be an independent claim while still maintaining the A ring as either a pyridine, pyrazole or thiophene.

Claim 25 has been amended to add a period.

All the claims have been amended to delete reference to, “enantiomer, racemate, diastereomer, or mixture of diastereomers”. It will be understood that the amended claims cover compounds having one or more chiral centers and thus exist as any one of the enantiomeric or diastereomeric species.

III. Conclusion

The Applicants request timely examination of the elected invention. It is believed that all claims can be examined together without undue burden. The Examiner is invited to contact the

undersigned attorney by telephone if there are any questions about this Submission or other issues that may be resolved in that fashion.

Respectfully submitted,

/James B. Myers/
James B. Myers
Attorney/Agent for Applicant(s)
Registration No. 42,021
Phone: 317-276-0755

Eli Lilly and Company
Patent Division
P.O. Box 6288
Indianapolis, Indiana 46206-6288
10 September 2009